SINGLE BENCH

(3)

CF. 1002 (5)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR
(Service-matter)
WRIT PETITION NO. 5368 /2006

PETITIONER

Smt. Devi Nisha Patel, W/o. Shri Santosh Kumar, Aged about 35 years, Working as Assistant Teacher in Government Girls Primary School, Shivni, Development Block Nawagarh, Distt. Janjgir-Champa (C.G.).

P.R. No. 53826
Presented by Shri Abhishek Sharma
dated 10/8/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh,
Through the Secretary,
School Education Department,
D.K.S. Bhawan, Raipur (C.G.).

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10.8.06

2. The District Education Officer,
District Janjgir-Champa (C.G.).

3. The Principal,
Government Girls Primary School, Shivni, Development Block Nawagarh, District Janjgir-Champa (C.G.)

OATH COMMISSIONER
APARNA MALVIYA
CG 07866
10/08/06
Bilaspur Chhattisgarh

4. The Collector,
District Janjgir- Champa (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT/WRITS,ORDER/ORDERS,DIRECTION/DIRECTIONS IN NATURE OF WRITS OF MANDAMUS, CERTIORARY OR ANY OTHER WRIT OF LIKE NATURE ETC.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 5368 of 2006

Petitioner: Smt. Devi Nisha Patel

Versus

Respondents: State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Kishore Bhaduri, Advocate for the petitioner.

Shri Ajay Dwivedi, Panel lawyer for the Respondents.

ORDER

(9th October, 2006)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The petitioner is working on the post of Assistant Teacher in Government Girls Primary School, Shivni, Block- Nawagarh, District- Janjgir Champa. The District Education Officer has published a list in which the petitioner along with other teachers has been shown to be surplus and called for counseling for their transfer to a place, other than the present place of posting.

2. The submission of learned counsel for the petitioner is that as per the Rationalization Scheme, 2006 in case of surplus teachers in any school, only the junior most teachers are to be included in the list of surplus teachers and they may be transferred in accordance with the Scheme. Whereas, in the present case, there are many teachers, who are junior from the petitioners but their names have not been included in the list and the name of the petitioner has been included, which is contrary to the Rationalization Scheme.

3. On perusal of the papers, it is clear that Clause 7 of the Rationalization of Teachers Policy dated 1.6.2006 provides for a statutory appeal before the competent authority. In that view of the matter, learned counsel for the petitioner submits that the petitioner may be allowed to make an appeal before the competent authority and the competent authority may be directed to consider and decide the same within stipulated period. Learned counsel appearing for the State/respondents has no objection to this submission.

4. Since the petitioner has equally efficacious alternative remedy available, therefore, he should prefer an appeal before the appellate authority and the authority to consider the points raised by the petitioner.

5. The time taken by the petitioner in filing this appeal till its disposal shall be condoned in preferring the appeal before the appellate authority.

6. With the direction aforesaid, the petition stands disposed of.

7. Consequently M(W)P No. 4142/2006 also stands disposed of.

Sd/-
Satish K. Agnihotri
Judge

Thakur